

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE**

WILLIE DAVIS, JR., NATHANIEL BRIDDELL,)	
JOSEPH GARRISON, LARRY GIBBS,)	C. A. NO. 04-0414-SLR
and ROY H. WALTERHS,)	
)	JURY TRIAL DEMANDED
ALL SIMILARLY-SITUATED CURRENT AND)	
FORMER EMPLOYEES OF MOUNTAIRE)	COLLECTIVE ACTION
FARMS, INC., MOUNTAIRE FARMS OF)	
DELMARVA, INC., and MOUNTAIRE FARMS)	
OF DELAWARE, INC.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
MOUNTAIRE FARMS, INC.,)	
MOUNTAIRE FARMS OF DELMARVA, INC.,)	
and MOUNTAIRE FARMS OF)	
DELAWARE, INC., all Delaware corporations,)	
)	
Defendants.)	

PLAINTIFFS' MOTION FOR A NEW TRIAL

Pursuant to Federal Rule of Civil Procedure 59(a)(1)(A), Plaintiffs Willie Davis, Jr., Nathaniel Briddell, Joseph Garrison, Larry Gibbs and Roy H. Walters ("Plaintiffs"), hereby move this Honorable Court for a new trial for the following reasons that are set forth herein and are discussed in the accompanying Memorandum of Law:

1. The Court committed reversible error when it failed to admit an admission of a party-opponent pursuant to Federal Rule of Evidence 801(d)(2) being the testimony of Plaintiff Joseph Garrison who was prepared to testify that his manager, Douglas Lynch, advised him at the time the claim was made that Mountaire was aware that they owed the Plaintiffs overtime and they would calculate same.

2. The Court committed reversible error when it denied admission of Plaintiffs' "Exhibit 1" containing an admission of Defendant that they owed Plaintiffs overtime.
3. The Court committed reversible error by failing to admit various responses by Defendant to Plaintiffs' Request for Admission that showed that Defendants misrepresented Plaintiffs' working hours.
4. The Court committed reversible error when it denied Plaintiffs' *Batson* challenge of an African American juror struck by Defendant pursuant to a peremptory strike when there were insufficient bases to show that the strike was not racially motivated.
5. The jury selection process in this matter was unconstitutional and contrary to federal statutes because of the resulting under-representation of African Americans in the jury venire.

WHEREFORE, Plaintiffs herein respectfully request that the Court grant a new trial in this matter.

MARTIN & WILSON, P.A.

/s/ Jeffrey K. Martin

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